

EXTENSION OF FREE TRADE BENEFITS TO THE WEST
BANK AND GAZA STRIP

MARCH 25, 1996.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 3074]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3074) to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. INTRODUCTION

A. PURPOSES AND SUMMARY

H.R. 3074 would provide the President proclamation authority to modify or eliminate tariffs on products from the West Bank and Gaza Strip and qualifying industrial zones.

B. BACKGROUND AND NEED FOR LEGISLATION

On April 25, 1985, the United States and Israel signed the U.S./Israel Free Trade Agreement. The Agreement was implemented into U.S. law on June 11, 1985. The main element of the Agreement is the reciprocal elimination of tariffs on all products traded between the two countries on January 1, 1995 and the elimination of other restrictive regulations of commerce on bilateral trade as provided under Article XXIV of the GATT 1994 for free trade areas. Duties were eliminated by both countries over ten years in four staging categories depending on the level of import sensitivity of

articles for domestic producers. Duties on certain products were eliminated immediately as of September 1, 1985.

In an exchange of letters on October 17, 1995, among the United States, the Government of Israel, and the Palestinian Authority, the U.S. Trade Representative agreed to seek statutory authority to proclaim elimination of existing duties on articles of the West Bank and Gaza Strip. The Palestinian Authority agreed to accord U.S. products duty free access to the West Bank and Gaza Strip, to prevent illegal transshipment of goods not qualifying for duty free access, and to support all efforts to end the Arab economic boycott of Israel.

Under current U.S. law, tariffs may be modified or eliminated in two situations. First, they may be implemented into law by Congress. Second, the President may proclaim modifications or eliminations of tariffs pursuant to a grant of proclamation authority by the Congress. Specifically, Congress has periodically delegated authority to the President to negotiate and proclaim reductions in tariffs under reciprocal trade agreement, subject to specific conditions and limitations, without requiring further Congressional action. The most recent grant of such authority was contained in section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988. That provision, however, has expired. Accordingly, in order to implement the terms of the October 17, 1995, exchange of letters, new proclamation authority is required.

C. LEGISLATIVE HISTORY

H.R. 3074 was introduced on March 13, 1996 by Chairman Crane, on behalf of himself, Mr. Shaw, and Mr. Rangel. The bill was referred to the Committee on Ways and Means.

On March 14, 1996, the Committee on Ways and Means met to consider H.R. 3074. The Committee ordered the bill favorably reported, without amendment, by voice vote.

II. SECTION-BY-SECTION SUMMARY OF H.R. 3074 AND COMPARISON WITH PRESENT LAW

SECTION 1: ADDITIONAL PROCLAMATION AUTHORITY

Present law

The United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note) eliminates tariffs on all products traded between the United States and Israel on January 1, 1995 that meet the rule of origin requirements under the Agreement. The statute, however, does not apply to products from the West Bank or Gaza Strip. The President's authority to proclaim further tariff modifications or eliminations has expired.

Explanation of provision

Section 1 would amend the United States-Israel Free Trade Area Implementation Act of 1985 by adding a new section 9. Section 9 would provide the President proclamation authority to modify tariffs on products from the West Bank, Gaza Strip and qualifying industrial zones. The provision would apply to areas designated as industrial parks between the Gaza Strip and Israel and between

the West Bank and Israel. The effect of the provision is to offer to goods from the West Bank, Gaza Strip, and qualifying industrial zones (located between Israel and Jordan or Israel and Egypt) the same tariff treatment as is offered to Israel under the U.S./Israel Free Trade Agreement. The legislation applies the same rule of origin requirements as to products from the West Bank, Gaza Strip, and qualifying industrial zones as are already applicable to products from Israel.

Reason for change

The Committee believes that granting duty free treatment for goods produced in these zones is important to the peace process, will increase employment, and will stimulate the economy of the region. The Committee intends, assuming the President takes advantage of the proclamation authority provided by the legislation, that the Administration will apply to products from the West Bank, Gaza Strip, and qualifying industrial zones the identical rules of origin that it applies to goods from Israel. Moreover, it is the Committee's understanding that the Administration intends to apply the proclamation authority to all eligible products from these areas. The President could terminate the grant of duty free treatment if changed circumstances warranted such action in the future.

III. VOTE ON THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made relative to the votes of the Committee in its consideration of the bill, H.R. 3074.

MOTION TO REPORT THE BILL

The bill, H.R. 3074, was ordered favorably reported without amendment by voice vote, with a quorum present.

IV. BUDGETARY AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECT

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made:

The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO) which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that the bill does not provide new budget, spending, or credit authority. The bill may result in a decrease in tariff revenues but would have no effect on tax revenues.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Con-

gressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 15, 1996.

Hon. BILL ARCHER,
*Chairman on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3074, as ordered reported by the Committee on Ways and Means on March 14, 1996. CBO estimates that this bill would result in a negligible reduction in governmental receipts. Because enacting H.R. 3074 could affect receipts, pay-as-you-go procedures would apply to the bill. H.R. 3074 contains no intergovernmental or private sector mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments.

H.R. 3074 would amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with the authority to eliminate or modify the existing duty on articles imported from the West Bank, Gaza Strip, and qualifying industrial zones (designated territory of Israel and Jordan or Israel and Egypt). CBO believes that the Administration intends to utilize the proclamation authority established in the bill without further legislation.

Currently, U.S. Customs collects less than \$1,000 annually from the West Bank, Gaza Strip, and the qualified industrial zones. Therefore, the elimination or modification of such duties by Presidential proclamation would lead to a negligible reduction in revenues.

If you wish further details, please feel free to contact me or your staff may wish to contact Stephanie Weiner.

Sincerely,

JUNE E. O'NEILL,
Director.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to subdivision (A) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's oversight activities concerning customs and tariff matters, import trade matters, and specific trade-related issues that the Committee concluded that it was appropriate to enact the provisions contained in the bill.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

With respect to subdivision (D) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Com-

mittee on Government Reform and Oversight with respect to the provisions contained in this bill.

C. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the provisions of the bill are not expected to have an overall inflationary impact on prices and costs in the operation of the national economy.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics):

UNITED STATES-ISRAEL FREE TRADE AREA IMPLEMENTATION ACT OF 1985

* * * * *

SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.

(a) *ELIMINATION OR MODIFICATIONS OF DUTIES.*—The President is authorized to proclaim elimination or modification of any existing duty as the President determines is necessary to exempt any article from duty if—

(1) *that article is wholly the growth, product, or manufacture of the West bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone;*

(2) *that article is imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and*

(3) *the sum of—*

(A) *the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone plus*

(B) *the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone,*

is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

For purposes of determining the 35 percent content requirement contained in paragraph (3), the cost or value of materials which are used in the production of an article in the West Bank, the Gaza Strip, or a qualifying industrial zone, and are the products of the United States, may be counted in an amount up to 15 percent of the appraised value of the article.

(b) *APPLICABILITY OF CERTAIN PROVISIONS OF THE AGREEMENT.*—

(1) *NONQUALIFYING OPERATIONS.*—No article shall be considered a new or different article of commerce under this section, and no material shall be included for purposes of determining the 35 percent requirement of subsection (a)(3), by virtue of having merely undergone—

(A) *simple combining or packaging operations, or*

(B) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

(2) *REQUIREMENT FOR NEW OR DIFFERENT ARTICLE OF COMMERCE.*—For purposes of subsection (a)(1), an article is a “new or different article of commerce” if it is substantially transformed into an article having a new name, character, or use.

(3) *COST OR VALUE OF MATERIALS.*—(A) For purposes of this section, the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone includes—

- (i) the manufacturer’s actual cost for the materials;
- (ii) when not included in the manufacturer’s actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer’s plant;
- (iii) the actual cost of waste or spoilage, less the value of recoverable scrap; and
- (iv) taxes or duties imposed on the materials by the West Bank, the Gaza Strip, or a qualifying industrial zone, if such taxes or duties are not remitted on exportation.

(B) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of—

- (i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;
- (ii) an amount for profit; and
- (iii) freight, insurance, packaging, and all other costs incurred in transporting the material to the manufacturer’s plant.

If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

(4) *DIRECT COSTS OF PROCESSING OPERATIONS.*—(A) For purposes of this section, the “direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone” with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

- (i) All actual labor costs involved in the growth, production, manufacture, or assembly of the article, including fringe benefits, on-the-job training, and costs of engineering, supervisory, quality control, and similar personnel.
- (ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.
- (iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the article.
- (iv) Costs of inspecting and testing the article.

(B) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manu-

facturing the article. Such items include, but are not limited to—

- (i) profit; and
- (ii) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

(5) *IMPORTED DIRECTLY.*—For purposes of this section—

(A) articles are “imported directly” if—

(i) the articles are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel into the United States without passing through the territory of any intermediate country; or

(ii) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

(B) if articles are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they—

(i) remain under the control of the customs authority in an intermediate country;

(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

(iii) have not been subjected to operations other than loading, unloading, or other activities necessary to preserve the article in good condition.

(6) *DOCUMENTATION REQUIRED.*—An article is eligible for the duty exemption under this section only if—

(A) the importer certifies that the article meets the conditions for the duty exemption; and

(B) when requested by the Customs Service, the importer, manufacturer, or exporter submits a declaration setting forth, all pertinent information with respect to the article, including the following:

(i) A description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading.

(ii) A description of the operations performed in the production of the article in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel and identification of the direct costs of processing operations.

(iii) A description of any materials used in production of the article which are wholly the growth, prod-

uct, or manufacture of the West Bank, the Gaza Strip, an qualifying industrial zone, Israel or United States, and a statement as to the cost or value of such materials.

(iv) A description of the operations performed on, and a statement as to the origin and cost of value of, any foreign materials used in the article which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel.

(v) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip, or a qualifying industrial zone.

(c) *SHIPMENT OF ARTICLES OF ISRAEL THROUGH WEST BANK OR GAZA STRIP.*—The President is authorized to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

(d) *TREATMENT OF COST OR VALUE OF MATERIALS.*—The President is authorized to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost of value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

(e) *QUALIFYING INDUSTRIAL ZONE DEFINED.*—For purposes of this section, a “qualifying industrial zone” means any area that—

(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

(3) has been specified by the President as a qualifying industrial zone.